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Live-Streaming: Will football fans continue to be more law abiding than music fans?

Jack Birmingham and Matthew David* [* contact author Matthew David.
Email: Matthew.David@brunel.ac.uk]

Department of Sociology and Communications, Brunel University, England

Abstract

The Compact Disc was launched in 1982 and heralded a golden age of music industry profitability before extensions of the same digital revolution, in the form of file-sharing, began, in 1999, to undermine the very foundations of commercial mediation in recorded music. The parallels in English football run one decade behind, with subscription based digital broadcasting of live matches kicking off in 1992. Much has been made of the successes and corruptions associated with the vast influx of revenues that have supposedly transformed English 'elite' football, but such discussions are premature at best. Ten years on from the advent of file-sharing in music, parallel technologies are emerging for the free transmission of live sporting events. This article suggests that the cultural differences that might have inhibited the up-take of such services amongst football fans, relative to music fans, have been eroded by the very hyper-commercialization of sport which digital media once helped to facilitate but which now threatens or promises to undermine.

Introduction

Until recently popular music fans undertook copyright infringing peer-to-peer file-sharing to a degree not emulated in sport, with its equivalent, that being 'live-streaming'. A number of reasons can be given for this difference. Some of these 'possible' explanations are tenuous. It is unlikely to simply be a question of complexity, with football fans being less capable than music fans, or simply a question of access to computers. Recent shifts in the composition of football fandom,² alongside the lengthening age profile of popular music audiences,³ have undercut those educational, class, income and age differences that may have been used to explain uneven computer access, use and skill. Gender differences exist, but would not help explain why music fans download, whilst football fans, until recently, tended not to live-stream. Alternative explanations in terms of the 'live' character of sport and the desire to watch such events as they happen, relative to the 'recorded' character of most on-line music are also insufficient to explain the difference in use. Demand for live-streaming services has led to numerous technical innovations that have improved quality, accessibility, simplicity of use and reliability. As such, the most fruitful explanation was/is difference in fan 'loyalty', with music fans appearing more detached from the commercial management of bands they like(d) relative to football fans for whom it was/is less easy to separate following your team and paying its corporate owners. Downloading music and then paying more for live performances and paying to go to more live performances is a separation not available for football fans. As musicians get paid more for live performance relative to recording anyway (in percentage of sales terms and overall), many fans see by-passing record companies as a moral act.

While, on the one hand it does appear that football fans retain a deeper loyalty to their

clubs, in recent years this has been tempered by increased disaffection with corporate pricing, something that may explain the rising use of live-streaming. This article examines the case of Justin.tv and the attacks upon it from Sky, Setanta, the FA and the English Premier League. While digital media have fostered increased revenues in football, over the last ten years they have wrecked the recorded music industry. Digital media encouraged an economic boom in recorded music in the period from 1985-95 attracting corporate colonization. Digital media then facilitated near catastrophic declines at least for those seeking to profit from the sale of recordings. Football currently basks in the parallel initial revenue surge. Will it go blindly down the same path as the recording industry?

Shifting dynamics of business and technology in music and sport

In music there was a longstanding movement back and forth between concentration and the emergence of new competition opening up the field.⁴ New waves of popular musical styles and genres coincided with the influx of new record labels able to break into the market because they carried innovative material that caught the audience's attention and their money. In time each such influx and expansion in available suppliers would re-concentrate as consolidation of either old majors or new ones would see a small group of labels either incorporate or marginalize the rest. This concertina effect of expansion and contraction ended in the 1980s and 1990s with the development of internal differentiation. Major labels realized it was safer to buy up new independent labels that carried new and rising artists. They thereby incorporated innovation rather than competed with it.⁵ The development of increased control by major labels was twofold. Increased concentration of ownership saw mergers and acquisitions shrink the number of 'majors' from double figures to three or four today. Secondly, this smaller number of majors bought up a greater share of what would have once been deemed 'independent' labels, even whilst often retaining the names for marketing purposes. This dual increase in corporate concentration within the musical field was itself paralleled with increased cross-media integration. Multi-national and multi-media concentration integrating television, music, film and other media was in large part encouraged by the high profitability resulting from 'reformatting', the requirement of music fans to re-stock their record collections from vinyl to CD. Major labels could afford to buy up prospective competition, whilst at the same time being attractive purchases for even larger global cross-media conglomerates.

From the birth of the Compact Disc in 1982 onwards sales of music began to rise, reaching unprecedented levels in price, volume and profit. Recorded music became a highly attractive area of business. Digitization reduced costs, fostered increased sales, was used to legitimize higher prices for a long period, reduced losses due to damage and generally was seen as a perfect profit storm.⁶ Some voices at the time noted that retailing digital recordings was like giving away the master copies,⁷ but until the advent of cheap CD burners in the mid 1990s, most in the record industry were too busy counting their rising profits to be concerned. The perfect profit storm started to turn nasty only with the development of peer-to-peer file-sharing at the end of the 1990s. Interestingly, the rise of digital burners (1996) and then of file-sharing (1999) coincides with an initially small, but then a very large shift upwards in audience willingness to pay for live performance.⁸

In a similar fashion English football also underwent a boom in profitability, marketization and consumerism which was symbolized in the creation of the Premier League in 1992.⁹ This was a breakaway from the original English Football League. The Premier League acts as a Limited company, owned by the 20 member clubs who act as share holders.

Cumulative club revenue is now at around 2 billion pounds sterling per season.¹⁰ The bulk of this revenue comes from the most marketable aspect of the Premier League, the games themselves. Television rights to show live fixtures were initially assigned to BSkyB at the league's inception in 1992. The technology of 'satellite television' and also the merits of subscription based services were relatively untested in the United Kingdom, however the popularity of football and the growing quality of the players on show in the Premier League ensured that many fans of the game embraced the initial transition. From this point onwards the costs of television rights deals have risen at a very substantial rate with world-wide total rights revenue from 2007-2010 totaling nearly £2.6bn. £1.7bn of this is for the 6 packages shown live in the UK. These were purchased by Sky Sports (4 for £1.3bn) and Setanta (2 for £392m). Anticipation of future profits from football broadcasting can be seen in the February 2009 announcement that Sky Sports have extended their rights from 4 to 5 packages, with Setanta gaining only 1 for the period of 2010-2013.¹¹ The price for domestic broadcast rights remained unchanged however (£1.7bn), despite the severe economic downturn, whilst the price achieved for the sale of overseas rights rose significantly.¹² Setanta UK's application for bankruptcy in June 2009 suggests that the anticipated returns from subscriptions are not being realized. Assumptions that economic depression would keep people at home in front of the television, and as such, would not depress demand for subscription based sports services appear to have been misguided. An economic squeeze might keep people at home, but if free alternatives to paying for subscription services exist, the consequences of recession do not look so positive for those seeking to sell hope and diversion. Richard Giulianotti and Roland Robertson note that 'experts' had predicted that 80% of UK households would take up subscription based football centered television channels, relative to a rate of 38% in 2002. Such expectations fueled rising bids for rights packages, but there is now little expectation that they will ever be realized.¹³ Giulianotti and Robertson point to the correlation between low subscription rates and high levels of 'piracy' in Italy. This is, in large measure, the result of high levels of 'piggy backing' on single satellite or cable subscriptions in apartment blocks, the most popular housing form in Italy. The UK's preference for houses relative to flats may limit the incidence of such forms of sharing, but will offer little insulation against live-streaming.

The levels in money currently spent on these rights packages has been paralleled with an increase over time in subscription rates viewers have to pay to watch televised Premier League football and the price of going to see matches live at the grounds. Season ticket prices have risen rapidly. In a similar fashion, these rises have been directly matched by increases in the price of match tickets and the average match day spend. Average admission prices have risen by over 200% for EPL clubs since the creation of the Premier League in 1992, and the average match day spend has increased by over 18 percent in the 2006-7 year alone.¹⁴ This inexorable rise in the cost to watch the sport live, be it on television or at the ground has led some disillusioned football fans to seek alternative methods to watch football, for a much more reasonable price; free. These alternative methods are centered on the use of digital media to stream the games illegally over the internet. Whilst football clubs in some countries and whole sporting leagues, such as baseball in the United States and cricket's Indian Premier League offer forms of low-cost legal streaming services to fans, this is not something which the English Premier League's broadcasting business plan currently appears to entertain the possibility of. Moves in 2010 to enable 'streaming' of Premier League highlights (by Sky, Yahoo! and ESPN), and to overseas audiences (by Leeds United Football Club), as well as in developing mobile streaming services to what on telephones do not significantly step outside the established model. Consequently, and with alarming frequency, official match broadcasts from rights holders here and overseas are being captured and simultaneously broadcast live

and illegally on websites such as Justin.tv. In June 2009 Setanta UK declared bankruptcy. It had failed to gain sufficient subscribers in order to fund the payments it had committed itself to in purchasing rights for the matches it wanted to broadcast. This failure to achieve its expected audience saturation makes the question of what alternative methods are being used to view live matches all the more significant. Rupert Murdoch had been able to withstand a long period after 1992 where the cost of television rights was not being recouped by means of audience subscriptions. This had been done in anticipation of building a long term market dominance through near monopoly control of broadcast rights. Large pockets and the vision of a future monopoly, with profits to match, were not things that Setanta could rely on. The threat of free streaming undermines the assumed end point and so limits the scope to secure funds against such a future return. Financially squeezed by clubs and broadcasters in the good years, and now faced with wider economic pressures, growing numbers of fans are seeking alternative methods to watch their team. To focus on this issue in more detail, the nuances of the technology involved in live streaming, the illegalities that this entails and the Premier League's responses to this rapidly growing trend will form the focus of this article.

File-sharing and Live-Streaming: parallels and differences

File-sharing programs originally required users to up-load and down-load files through the central server of the service provider. This was commercially attractive as advertising space could be sold to appear on the central server's interface and hence on the user's computer screen. However the transmission of all traffic through such a central server was the legal Achilles' heel that allowed record, film and other content providing companies to prosecute and close the first large scale file-sharing service Napster on the grounds of 'contributory infringement' (in effect trafficking copyright infringing files). After the closure of Napster file-sharing services moved to direct peer to peer (distributed) formats. Then, when faced with legal moves against up-loaders, file-sharers moved to the use of peers (plural) to peer (singular) 'torrent' formats where users download from a stream of available copies so not taking a copy from any one individual up-loader. The development of peer to peer file-sharing has seen a cat and mouse cycle of move and countermove as legal and technical developments have conditioned and challenged each other.

In one sense at least live-streaming resembles Napster in as far as streaming is channeled through a central server. In this regard live-streaming is similar to many social networking sites, such as Facebook and MySpace, but unlike these networks, which require friend to friend selection to join specific networks, live-streaming tends to have the 'open to all' character of most peer to peer and torrent services. Live-streaming services are therefore doubly vulnerable to legal challenge, being both directly involved in the streaming of potentially copyright infringing materials between users, and being wide open to being accessed by anyone interested in finding out what is being made available, including those acting on behalf of copyright holders.

The specifics of Justin.tv

The most prominent of the streaming websites currently is Justin.tv, a San Francisco based website with 'over one million users' at any particular point in time.¹⁵ The way in which the website works is that it provides a free of charge webpage for people to stream their own webcam, broadcast or recorded footage through. The website takes pride in the 'simple process' of broadcasting, and states that 'all you need to broadcast is a camcorder or webcam hooked up to an internet-connected PC or MAC computer'.¹⁶ In the thirty one days

of July 2008 alone it was reported that '90,690 channels had been created'.¹⁷ It was also reported that this number had been rising every month before that time, and it would appear that no let-up has taken place since then.¹⁸ With such an ease of broadcasting it is inevitable that people will broadcast footage that they do not own the rights for. This coupled with such a vast number of channels actively broadcasting at any particular moment, makes it unrealistic to believe that Justin.tv, or other smaller streaming portals can be aware of what is being broadcast on every such channel all of the time. The question of whether the service provider is liable for what users broadcast, even if the provider is not aware of what such specific uses are going to be before they happen, or at all, has been the source of very significant legal dispute over the last ten years. This ability to infringe copyright and distribute streams worldwide is where the problem begins for rights holders, with users of such streaming websites hosting broadcasts of live Premier League matches free of charge. Illegal broadcasters can simply re-route footage of games being broadcast legally in their own country. The English Premier League prohibits many games from being shown live in the UK, on the premise that such live competition would impact on gate receipts. However, these matches are shown legally in other jurisdictions as part of profit maximizing country by country rights selling. Those wishing to live-stream, using a webcam or capture card, simply reproduce this footage with a 1 or 2 second delay through the use of Justin.tv's central directory. Whatever is being shown in one place, is now more than likely to be available everywhere else and for free.

The popularity of such streams has risen to new heights in the last two years. Currently on match day weekends there are numerous streams for every single Premier League game being played. The game played between Chelsea and Liverpool on 26 October 2008 gained more than 574,000 individual hits during the course of the 90 minutes, and the 6 September 2008 England away game versus Croatia had 6 separate streams available, with the most popular gaining just over 30,000 viewers at any one time.¹⁹ On a special page on their website entitled 'Digital Millennium Copyright Act Notification Guidelines',²⁰ Justin.tv claim that they are not liable for the content streamed through their website and are fully compliant with the Digital Millennium Copyright Act (discussed below). Live-streaming is both live and mediated, being live in time, but doubly mediated in that viewing is remote and channeled through the service provider's central server. File-sharing in its current form is not live and it is mediated only in the former sense. This means that potential scope for legal liability is different, as will be discussed in more detail below.

Legal conflicts between the English Premier League and Justin.tv

Recent press coverage from in 2008 and 2009 has highlighted the legal battle threatening to erupt between the English Premier League and Justin.tv.²¹ Attaching liability to a streaming portal such as 'Justin.tv' is a complicated issue as the user, not the website itself, is uploading the copyright infringing stream. The legislation that governs copyright violation is part of intellectual property (IP) law and more specifically in relation to a US based internet company such as Justin.tv, the 1998 'Digital Millennium Copyright Act' (DMCA). This act passed into US law the World Intellectual Property Organization's 1996 Copyright Treaty, a treaty that all WIPO signatories are required to pass into domestic legislation.²² The UK and EU have passed similar legislation, but that is not to say that each law and interpretations of such laws have been the same in each country. They most certainly have not, and the relative weigh given to human rights to privacy and free-expression relative to copyrights and restrictions on the free circulation of information differs from state to state even when guided by the same legislation.²³ That the UK Premier League may seek to bring action in the US

courts is interesting, as a number of recent US court judgments have moved away from strong reliance upon claims made by content industry representatives towards upholding the rights of new media companies to innovate without the fear that product providers will be held liable for the actions of users.²⁴ The DMCA is being interpreted more cautiously than at its inception, as will be explained in more detail below.

The Premier League are utilizing a part of the DMCA in an attempt to take legal action over websites such as 'Justin.tv'. The specific part is titled 'Contributory Infringements', the most relevant section centered around the premise that if a computer system operator learns of infringement and fails to purge the infringing materials from its system, then it is liable for any such infringement.²⁵ This was the basis upon which the DMCA was applied in the closure of Napster, the original file-sharing service in 2001/2. In the case of Justin.tv and the Premier League the accusation basically amounts to the claim that Justin.tv are aware of streams of live games being uploaded, but are doing nothing to prevent them. This threat of legal action however has done little to scare Justin.tv's CEO Michael Siebel who states that he 'does not anticipate any (legal) action' and that Justin.tv 'follow the guidelines set out by the DMCA and take content off the website when requested by a copyright holder'. He goes on to state that 'The Premier League is registered with Justin.tv and is actively using the suite of tools that we provide to copyright holders'.²⁶

Whilst Napster was closed because it refused to actively police its content, Justin.tv is happy to comply with any notice it receives about infringing content. Of course, it is in the nature of live coverage that the report is unlikely to be effectively acted upon until the event has finished, and the stream terminated anyway. Whilst Napster had, and Justin.tv has a central server through which traffic flowed/flows, and although such a central server aided in the success of legal claims that Napster was engaged in direct 'contributory infringement', the same is less easy to demonstrate when the infringing material is live and transient. Where Napster was held capable of learning of infringement and of not acting on such knowledge, Justin.tv cannot be so readily accused. It is not enough to know that a product can be used for unlawful purposes, if it can be used entirely lawfully as well. Neither is it enough to show that a service is being used for infringing activities for that service's provider to be liable of such usage. The file-sharing services Grokster and Morpheus successfully defended themselves against the Motion Picture Association of America in 2003 and 2004 using the dual use defense.²⁷ This principle was initially established in the United States by the Supreme Court 'Sony Ruling' in 1984. Sony was found not to be liable for the well known and most often copyright infringing practice of video recorder owners recording television programs using the 'record' button on their video recorders. Sony knows very well what such a button does and what most people will record (i.e. copyrighted material). As long as legitimate uses exist, the principle of dual use means that producers are not liable for users' actions. Whilst US courts have hotly debated the limits of the dual use defense, Justin.tv can legitimately claim that they do not actively condone or know of specific infringements until they are reported. Service providers have been closed down for actively promoting copyright infringement and actively encouraging such potential to promote their services. The most high profile case in point here was The Pirate Bay, who's founders received prison sentences in Sweden in 2009.²⁸ As long as Justin.tv work with copyright holders, enabling them to report infringement, and as long as they seek to act on such reports, they are not liable for what infringement others engage in through the channels they make available. However, this may be too little, too late as a means of preventing streams from being broadcast in the first place.

From this evidence it would seem that the English Premier League is left with the

unenviable task of patrolling 90,000 plus channels themselves. Whether the ‘suite of tools’ offered by Justin.tv to the English Premier League is enough to claim that Justin.tv are actively purging infringing material may become the focus of future legal challenge, but, for now, Justin.tv are actively claiming that they comply and are keen to comply with the law, and that they are doing so even as live-streams communicated via their service make available all the copyrighted assets of the English Premier League. That the English Premier League, Football Association, Sky Sports and others are becoming increasingly anxious over the rise in unauthorized broadcasts of their matches, feel threatened by the potential financial losses, and appear uncertain whether current legal attacks upon services such as Justin.tv will prove effective in driving the cork back into the bottle at the narrowest point, are all well founded fears. Whether they have any legal grounds for turning their fears into Justin.tv’s legal responsibility is more tenuous, and as things currently stand, very weak. Whether the English Premier League continues to pursue its legal battle, given its limited likelihood of success, or actually try to market competitively priced live online broadcasts of the games themselves will be an interesting debate to follow within and around future broadcasting negotiations.

The broadcasting of live-streams of Premiership matches without the permission of the English Premier League or the Football Association is ‘illegal’ and ‘amount[s] to piracy’,²⁹ according to the actual broadcast rights holders, namely Sky Sports and ESPN. ESPN is a subsidiary of the Disney corporation who bought up Setanta’s rights package when it went bankrupt as a loss-leading toe-hold into the European subscription television market. It is following the model established by Sky in using sports subscription television as the lead into wider services. As this article suggests, the model that Sky developed was highly costly and whilst it did become profitable in recent years, this is not secure even into the very near future. The accusation of piracy is both technically problematic and contradictory in consequence. Technically, in law, piracy refers to reproduction of copyrighted material for commercial gain, or which directly generates commercial damage, such as deliberate spoiling tactics designed to pass off fraudulent copies for legitimate ones. Direct commercial damage cannot be extended formally to inferred losses or indirect losses, such as when a fall in record sales is attributed to increased downloading by temporal association. The formal legal difference between civil infringement of copyright by file-sharers and criminal piracy has not stopped lobby groups and the media using the label to lump the two together. In so doing content industry lobby groups have been successful in popularizing the use of the term in relation to all forms of commercial and free infringement practices. Nevertheless this ‘success’ in extending the term ‘piracy’ beyond its legal meaning, may have been the content industry’s worst mistake. The term ‘piracy’ now confers a degree of rebel cool on practices that might otherwise be seen as simply penny pinching. From Jack Sparrow to The Pirate Bay, being labeled a pirate is not seen as a bad thing. Failure to prevent live-streaming by technical, legal and cultural means leaves, as the only possible way to meet the challenge, the offering of creative and attractive alternative business models that (enough) people will be willing to pay for. Current proposals by Sky, Yahoo!, Sony and others to make highlights available for mobile computer and phone access via streaming formats does not go anywhere near providing full and live coverage as can be viewed via copyright infringing live-streaming channels already.

Future consequences and possibilities: alternative business models and/or alternatives to business models

Live-streaming is unlikely to reduce demand/price/willingness to pay for actual live

attendance,³⁰ but it is likely to depress the revenues generated from broadcast (mediated access). With the live attendance market for the English Premier League now becoming increasingly saturated by the 'consumer fan' it would seem that in isolation illegal live-streaming will not decrease attendance figures, but will contribute to the continuing transformation of the socioeconomic character of those attending football matches as highlighted by commentators such as King.³¹

Nevertheless, clubs and leagues will need to focus more attention upon retaining traditionally core fans' revenues and loyalty, as well as chasing the wider mass audience if free alternatives undermine monopoly controls in the domain of television viewing. If subscription based TV access continued to witness the kinds of price rises that have characterized the last decade and a half, and if similar inflation continues in ticket prices, ever greater numbers of traditional fans will be unable to follow their team live through legitimate channels, encouraging illegal broadcasts from foreign channels in pubs, or illegal streams broadcast live over the internet. It may be the latter development that forces change in legal provision, whether this is by fan defection, or through their re-incorporation by means of more attractive and affordable legal options. The creation of an internally excluded core fan base within clubs is undermining still further the foundations of fan loyalty that has until recently at least enabled football clubs to avoid some of the worst effects of defection experienced by record labels.

In the recorded music industry, failure to balance profitability and the maintenance of legitimacy and loyalty has led the contemporary recording industry to the very brink of collapse, even while the very technology of digital storage, transmission and compression that threatens to by-pass major labels today was the same technology (applied differently) that enabled unprecedented profits a decade ago. It may very well have been the arrogance fostered by the profit boom that led recording industry managers to lose sight of the necessary trust that underpinned their sales. In the future, the English Premier League and the Football Association are going to have to find a balance between making a profit and including the core followers of the sport they are trying to promote.

When it comes to the illegal internet streaming of matches, the English Premier League, Sky and other rights holders should be anxious to get this problem under control. This could be accomplished by introducing their own reasonably priced pay-per-view online service to compete with free live-streaming sites, in the same vein that illegal file sharing provided 'a model for the more recent, and highly successful iTunes service'.³² It would be a further parallel to the music industry if live-streaming of football leads to an official subscription service being launched, just as it was the threat of file-sharing which enabled iTunes to get permission to distribute record company material over whose distribution record labels had until then jealously guarded their monopoly controls.³³

If the Premier League were to offer an online broadcast package or to sell the online rights to a separate carrier it would be following the lead of major American sports leagues such as Major League Baseball (MLB) who offer internet broadcast packages in the form of 'MLB.tv'. The service provides live 'HD' quality match broadcasts, archived highlights and 'On-Demand' viewing capabilities, all features which exceed the capabilities and quality of illegal streams. Priced competitively US baseball fans and others are willing to pay a small fee for the increased quality and reliability of official streams, rather than the unpredictability of illegal streams. Success in such an endeavor can be seen in the way illegal baseball streams on Justin.tv continue to decrease in line with cheap legal alternatives, just as English

football streams increase in the absence of such legal and affordable alternatives. If the Premier League continue to refrain from offering an official online alternative to counter-act the popularity of illegal sources and it simply seeks to undertake further and more intense protectionist actions, it faces multiple difficulties. With the likelihood of success being low, the chances of being discredited and publicizing its rivals increases. Increasingly draconian measures run the risk of alienating fans even further and thereby increase the likelihood that they will seek alternatives. Finally, the longer rights holders stand back from providing cheap and reliable alternatives to live-streaming services the better such infringing services become, both in terms of the range of materials made available and in their overcoming of the very technical weaknesses (in terms of quality, ease of access and quality of reception) that legal service providers would wish to claim they can provide, and which their rivals at present cannot. Every passing month sees live-streaming services improve, and sees more people going to find this out for themselves.

This paper argues that it would require a re-legitimizing of pricing, allowing everyone to watch at a price they can afford, to prevent such services as Justin.tv from growing further than they have already, or at least for such growth not to signal decline in commercial services. As things currently stand many fans are being priced out of watching the game of football, and the rising availability of free to watch online streams is only going to increase the lure of not paying. This is something the English Premier League should definitely be anxious about, and as Nick Hornby eloquently puts it when talking about the core of fans who create the atmosphere at football games, ‘without them nobody else would bother coming’.³⁴

After Setanta (?): A Future ‘Blue’ Sky Scenario

Rupert Murdoch bought MySpace in July 2005 for \$580m US (then £331m).³⁵ Estimated advertising revenues from this free to view content service for the three following years were around the \$900m US mark. The demise of Setanta at least in part indicates a declining confidence in the capacity of subscription based sports television to repay the huge sums involved in buying up the rights to the matches such subscriptions entitle viewers to watch. This is in part at least the result of free alternatives. Perhaps a rational Sky boss might look at the profit margins on his purchase of MySpace and compare this to the profits generated after paying out for TV rights and decide that the next time around he’ll put his money into buying Justin.tv instead and make an advertising deal to charge for the eye-balls drawn to such free-content live-streams. Having said this, MySpace has now been overtaken by Facebook as the most densely populated social networking service. Any calculation of the value of Justin.tv to a potential buyer must take account of the relatively short life-cycle of any such technological service. Even if live-streaming continues there is no guarantee that any particular provider will remain predominant or even popular. The speed with which live streaming may give way to something entirely new can also not be predicted. The only thing for sure is that is likely to be faster than we expect. User loyalty cannot be relied upon. Whether users of such services migrate away from sites whenever they become overly identified with the commercial exploitation of their users, or because technological developments render any particular service or service model subject to rapid replacement things will not remain static. Whatever the future holds, and however Rupert Murdoch decides to place his bets on the future, it would certainly be naïve for any sport to rely on his loyalty as regards the payment of broadcast rights revenues, and certainly not at current levels. It is likely that someone will pay for the rights to broadcast English Premiership football come 2013, but it is very likely that the price will have fallen dramatically. The consequences for the English ‘elite’ game of

such a contraction in funding will be significant, but, given the current situation, where half these clubs are already in a state of technical insolvency, it may be suggested that the years of plenty were squandered anyway, so the loss may not be as disastrous as might be imagined.

Conclusions

If CDs opened up a digital gold mine for the recording industry from 1982, the same began for football ten years later. In music the digital revolution started to threaten established commercial players from the late 1990s and from 1999 in particular with the advent of the original Napster. The ten year gap between the digital explosions in music and football leads us to expect the backlash to have begun in 2009, and the evidence presented here certainly supports this view. Football fan loyalty may be more resilient than is that of music fans, and the notion of club seems to bind fans, players, managers and owners in football in a way that does not operate in music (where bands are often disassociated from their management in the minds of fans). However, this linkage in football cannot be assumed to be unbreakable, and the ultra commercialization of elite football may break this relationship in the very act of trying to exploit it for all it can be made to be worth. If increased prices for live attendance invert traditional patterns of attendance relative to socioeconomic demographics then many traditional fans are likely to turn to live-streaming as a means of following teams they are priced out of paying to see. Quite what the consequences of such a development will be, and whether this is what will happen, remain uncertain. What is known is that a purely profit driven approach to fan based cultural industries is deeply myopic. Within the epilogue of Giulianotti and Robertson's examination of globalization and football, and on almost the penultimate page, the authors note the potential significance of new and yet under researched topics for the future of 'the global game'. They write: '... consumer 'piracy' may become more prominent and difficult to police as the transnational level, for example as individual viewers erode national pay-TV networks by freely accessing live matches through foreign internet platforms'.³⁶ In this article, we have sought to substantiate the significance of Giulianotti and Robertson's tentative suggestion.

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